

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TYLER DANCER, et al.,

Plaintiffs,

Case No. 1:23-cv-580

v.

Hon. Hala Y. Jarbou

UNITED STATES OF AMERICA, et al.,

Defendants.

ORDER

After entering a judgment dismissing Plaintiffs' complaint, the Court sanctioned Plaintiffs' counsel by awarding Defendants Graphic Packaging International ("GPI"), Graphic Packaging Holding Co. ("GPH"), and Paul McCann their "reasonable attorney's fees and other expenses for responding to the stricken allegations in the complaint, such as their fees and expenses for the motion to strike, for the hearing on that motion, and for responding to Plaintiffs' motion for reconsideration." (4/10/2024 Order, ECF No. 136.) The Court directed GPI, GPH, and McCann to file a statement of fees and expenses. They have done so, and Plaintiffs have responded with objections.

Notably, Plaintiffs' objections do not address Defendants' statement of attorneys' fees. Instead, the objections make general assertions about Rule 11 sanctions that the Court has already considered. Those objections are not persuasive. In addition, they are not timely. The Court gave Plaintiffs' counsel an opportunity to show cause why sanctions should not be ordered. Counsel forfeited that opportunity by not responding. Thus, Plaintiffs' objections are improper.

Defendants seek an award of approximately \$70,000 in fees for 110 hours of work by four attorneys charging rates ranging from \$445 to \$725 per hour. Defendants also seek \$205.03 in costs for mailing a Rule 11 letter to Plaintiffs' counsel and preparing a transcript for the hearing

regarding Defendants' motion to strike Plaintiffs' frivolous and improper allegations. The Court will allow the costs.

As to the attorneys' fees, the Court uses the "lodestar" approach, which assesses "'the proven number of hours reasonably expended on the case by an attorney, multiplied by his court-ascertained reasonable hourly rate.'" *Corbin v. Steak 'n Shake, Inc.*, 861 F. App'x 639, 649 (6th Cir. 2021) (quoting *Waldo v. Consumers Energy Co.*, 726 F.3d 802, 821 (6th Cir. 2013)). "The reasonable hourly rate accords with the 'prevailing market rate in the relevant community.'" *Id.* (quoting *Blum v. Stenson*, 465 U.S. 886, 895 (1984)). A reasonable number of hours does not include "excessive, redundant, or otherwise unnecessary" hours. *Id.* (quoting *Hensley v. Eckerhart*, 461 U.S. 424, 434 (1983)). Finally, "[w]here reductions to the requested number of hours reasonably expended on the litigation are appropriate, a court has the discretion to utilize a simple across-the-board reduction by a certain percentage as an alternative to line-by-line reductions." *Project Vote v. Blackwell*, No. 06-CV-1629, 2009 WL 917737, at *6 (N.D. Ohio Mar. 31, 2009) (citing *All. Int'l v. U.S. Customs Serv.*, 155 F. App'x 226, 228 (6th Cir. 2005)).

Approximately half of the attorneys' time (about 55 hours) was devoted to preparing, discussing, and reviewing a Rule 11 letter to send to Plaintiffs' counsel. Fifty-five hours of time drafting and reviewing a Rule 11 letter is excessive. The Court will reduce that amount to 15 hours.

Most of the remaining hours reflect time expended by several attorneys preparing and reviewing briefing regarding the motion to strike and Plaintiffs' motion for reconsideration. The involvement of multiple experienced attorneys on such relatively simple matters leads to duplication of effort and is excessive. The Court will reduce the remaining time to 25 hours.

As to the hourly rate, Defendants' attorneys are highly experienced. They are all partners and each has many years of experience. Three of them practice in Grand Rapids, Michigan, billing

at rates of \$725, \$550, and \$445, respectively. The other practices in Chicago, billing a \$650 hourly rate.

According to the State Bar of Michigan's 2023 Economics of Law Survey, attorneys in the 75th percentile in Grand Rapids bill at a rate of \$450. The median rate for Grand Rapids is \$350. For environmental law practitioners in Michigan, the hourly rate in the 75th percentile is \$490 and the median rate is \$413. The Court will use the 75th percentile in light of Plaintiffs' attorneys' extensive experience. A reasonable combined hourly rate for the attorneys in this case is \$475.

For 40 hours at \$475 per hour, the total reasonable fee is \$19,000.00.

Accordingly,

IT IS ORDERED that within 30 days of the date of this Order, Plaintiffs' counsel, John Robert Beason, III, must pay Defendants GPI, GPH, and Paul McCann a total of \$19,205.03.

Dated: October 30, 2024

/s/ Hala Y. Jarbou
HALA Y. JARBOU
CHIEF UNITED STATES DISTRICT JUDGE